

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No.831 of 2015**

Gopal Rai Soni, S/o Late Raghunath Rai Soni, aged about 53 years, R/o Laluram Colony, T.P.Nagar, Korba, Tahsil & District Korba (C.G.)

---- Petitioner/defendant**Versus**

Vimal Kediya, S/o Vishwanath Kediya, aged about 45 years, R/o HIG/47, Maharana Pratap Nagar, Korba, Tahsil & District Korba (C.G.)

---- Respondent/plaintiff

For Petitioner	:	Shri Alok Bakshi, Advocate.
For respondent	:	Shri Parag Kotecha, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****18/07/2016**

This petition under Article 227 of the Constitution of India is directed against the order dated 10.09.2015 passed by the Additional District Judge, Korba, dismissing the petitioner's misc. civil appeal under Order 43 Rule 1 (r) of the C.P.C. which in turn was preferred against the order passed by the 2nd Civil Judge, Class-1, Korba, on 15.01.2014 granting temporary injunction in a mandatory form against the petitioner.

2. By order dated 15.01.2014, the trial Court directed the petitioner / landlord to deliver back the possession of the suit shop to the plaintiff and thereafter not to interfere in plaintiff's possession during pendency of the suit.

3. In this petition, an interim order was passed by this Court on 09.10.2015 directing the parties to maintain status quo with regard to possession. The interim order is thus continuing since last 9 months.

4. Keeping in view the fact that the plaintiff was apparently not in possession of the suit shop at the time of filing of the suit, the order passed by the trial Court directing delivery of possession would amount to mandatory injunction which is ordinarily not granted as also for the fact that this Court has already directed the parties to maintain status quo and the said order is operative since last 9 months, it would be appropriate to dispose of the writ petition with a direction to the trial Court to decide the suit, which is pending since 2012, at the earliest, preferably within a period of 9 months from the date of presentation of certified copy of this Order. During pendency of the suit, the interim order passed by this Court on 09.10.2015 shall remain in operation.

5. It is made clear that any observation made by the Courts below or the interim order passed by this Court, which is made operative in this order, shall not be construed as an opinion on the merits of the case in favour or against any party to the suit. The trial Court shall decide the suit on its own merits depending upon the evidence available on record.

Sd/-
Judge
(**Prashant Kumar Mishra**)